



United States Department of Justice

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February 25, 2019

The Honorable Glenn T. Suddaby
Chief United States District Judge
Northern District of New York
100 South Clinton Street
Syracuse, New York 13261

Re: *United States v. Khaled Azzam*
Case No. 5:17-CR-174 (GTS)

Dear Judge Suddaby:

The purpose of this letter is to advise the Court that the government believes that, pursuant to the First Step Act ("FSA"), passed into law on December 21, 2018, the defendant is now safety valve eligible under Title 18, United States Code, Section 3553(f) (as amended by the FSA). The government notes, however, that the companion safety valve section of the United States Sentencing Guidelines (Section 5C1.2), has not been similarly amended. Thus, under the guidelines, the defendant remains ineligible. *See* PSR, Third Addendum, dated February 22, 2019.

To address this inequity, the government recommends that the Court grant the defendant a two-level downward variance, pursuant to Title 18, United States Code, Section 3553(a), from the resulting advisory guideline range.

In making this recommendation for a two-level downward variance the government will seek the defendant's agreement that he will not seek a further reduced sentence pursuant to Title 18, United States Code, Section 3582(c), in the event that the Sentencing Commission amends Section 5C1.2 to reflect the safety valve provisions of the FSA and also makes that amendment retroactive.

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